

Chapter 2 The framework of MPD:

2.1 Constitutional and Legal framework

In order to understand the subject, it is imperative to examine the special position that NCT of Delhi enjoys as the national capital, and understand the regime under which the planning process for the city is executed. Given the complexities involved, it is also imperative to understand the multi-agency structure of governance prevalent in Delhi. Delhi has also grown into a region of its own, regardless of the official state boundaries. Therefore, the study of Delhi has to be seen in the context of the National Capital Region (NCR) also.

2.1.1. The evolution of the structure of the Delhi State/Local Government.

Till 1956, Delhi was a 'state' after which, pursuant to the recommendation of the State Reorganisation Commission, it was declared a Union Territory.

With the enactment of the Delhi Municipal Corporation Act 1957, a Municipal Corporation was elected in April 1958. The jurisdiction of the MCD covered the entire Union Territory of Delhi

including rural areas, but excluding New Delhi and Delhi Cantonment. In this reorganisation, the jurisdiction of NDMC was reduced from 32 sq. miles to 16 sq. miles, and MCD took over the functions previously entrusted to the local bodies including the various municipalities, notified area committees, Delhi District Board and the three statutory bodies, viz. Delhi State Electricity Board, Delhi Road Transport Authority and Delhi Joint Water and Sewerage Board. MCD thus became the sole agency for provision and maintenance of urban services, sanitation and certain community facilities in Delhi. However, MCD was not entrusted with the responsibility of planning, development and disposal of urban land.

In 1966, with the enactment of the Delhi Administration Act by the Parliament, the Metropolitan Council, a representative body consisting of 56 elected and 5 nominated members was created, with very limited powers, since the basic powers continued to be vested in the Administrator (later on designated as Lieutenant Governor). Thereafter, many attempts were made to devolve powers, but broadly the above arrangement continued to be in place.

was Certain important developments took place in and after the year 1991. Article 239AA of the Constitution was introduced by the Constitution (Sixty-ninth Amendment) Act, 1991. Under Article 239AA (1) of the Act, the Union territory of Delhi was renamed as the National Capital Territory of Delhi. Article 239AA (2) (a) provides for a Legislative Assembly and that seats in the Assembly shall be filled by members chosen by direct election from territorial constituencies in the National Capital Territory. Under sub-section (3)(a), the Legislative Assembly has been given the power to make laws for the whole or any part of national Capital Territory with respect to any of the matters enumerated in the State List or in the Concurrent List except matters with respect to Entries 1, 2 and 18 of the State List and Entries 64, 65 and 66 in so far as they relate to the Entries 1, 2 and 18. Further, Sub-clause (b) of Clause (3) of Article 239AA states that nothing in sub-clause (a) shall derogate from the powers of Parliament under this Constitution to make laws with respect to any matter for a Union territory or any part thereof.

rights In January 1992, the Government of NCT of Delhi Act, 1991 was enacted by Parliament, based on which, a legislative assembly with a Council of Ministers under Articles 239 AA & 239 AB of the Constitution was created. Powers have been given under Section 3 (a) to make laws on all matters (except entries 1, 2 & 18) in the State list applicable to Union Territories. However, nothing in clause (A) shall derogate from the powers of Parliament in respect of laws for a Union Territory. Entries 1, 2 and 18 reserved with the Central Government relate to public order, police and land. Hence, although a State Assembly and the Council of Ministers is functioning in Delhi, it has powers to make laws in respect of all the 68 matters in the State list excepting police and land.

Entry 18 reads as follows:

"18. Land, that is to say, right in or over land, land tenures including the relation of landlord and tenant, and the collection of rents, transfer and alienation of agricultural land; land improvement and agricultural loans; colonization."

Thus, in respect of NCT of Delhi, Parliament is empowered to legislate in matters covered by Entry 18 which includes land,

rights in and over land and the Legislative Assembly of Delhi is not empowered to legislate on land related subjects. This is where the role of central government in urban planning, *inter alia*, also consisting of town planning, land use and construction of buildings, for the city is derived from.

2.1.2 The 74th amendment and NCT of Delhi

In terms of the actual set-up mandated for urban planning, it is well-known that part IXA of the Constitution was introduced by the Constitution (Seventy-fourth Amendment) Act, 1992 providing for powers, authority and responsibilities of Municipalities, to enable them to function as institutions of self-government, and also providing for devolution of powers and responsibilities upon Municipalities with respect to the preparation of plans for economic development and social justice. Further, Articles 243 ZD and 243ZE of the Constitution provide for constitution of District Planning Committee and Metropolitan Planning committee to prepare a draft development plan for the district or metropolitan area, as the case may be. It is important to note that under Article 243ZB of the Constitution, a notification has been issued in 2001 exempting the NCT of Delhi from the provisions of article

243ZD and Article 243ZE of the Constitution. Thus the provisions of article 243ZD and Article 243ZE of the Constitution are not applicable in the National Capital Territory of Delhi.

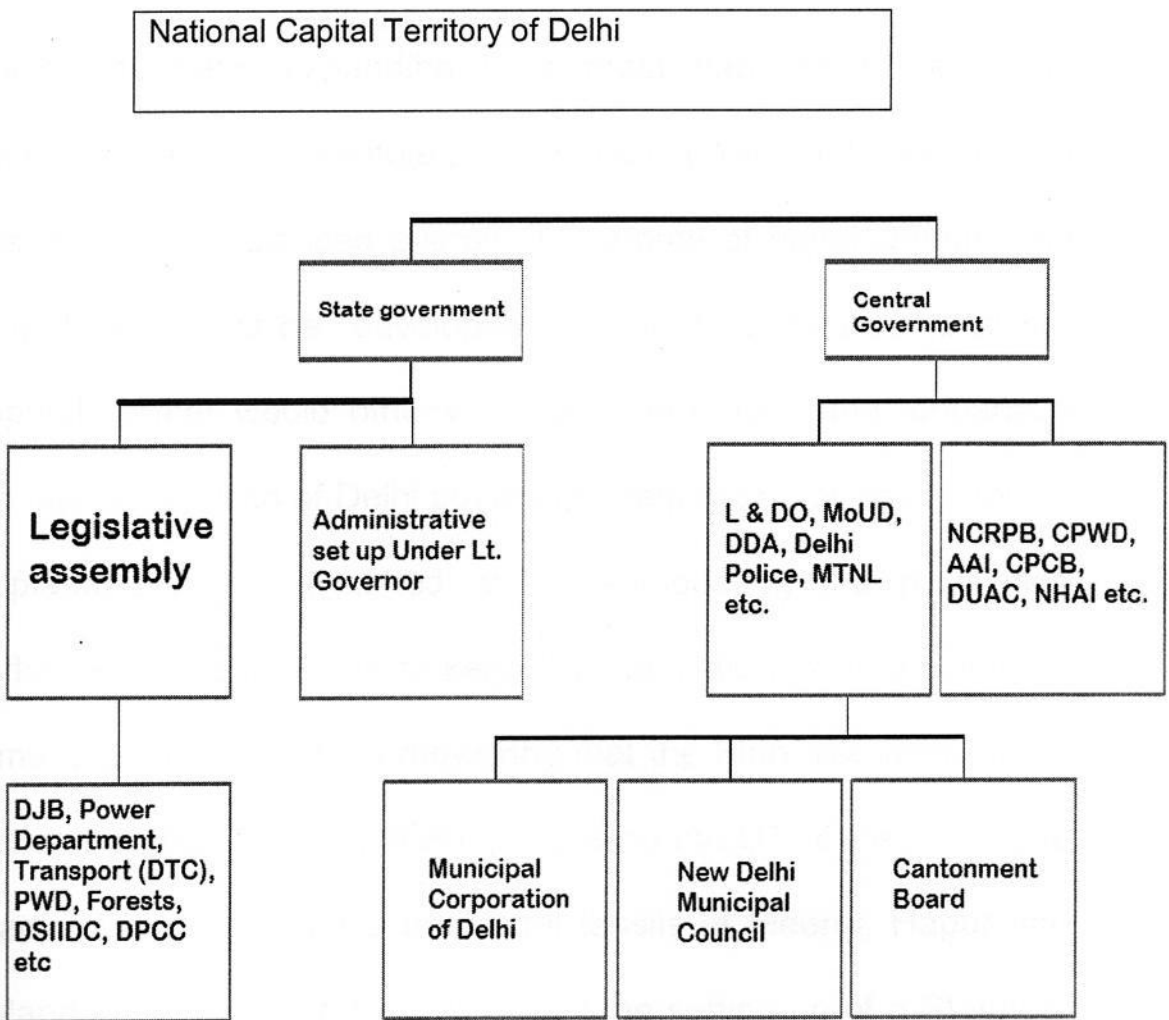
It is in this background that the functions of land use planning and spatial planning, which include promoting and securing the development of Delhi according to a Plan and the powers to acquire, hold, manage and dispose of land as well as powers for preparation of Master Plan and Zonal Development Plans have been entrusted to DDA by an Act passed by the Parliament viz. the Delhi Development Act, 1957. As provided by the Act, the objects of the Authority are "to promote and secure the development of Delhi according to plan".¹

2.1.3 Over-all structure of government in NCT of Delhi

Based on the afore-mentioned paragraphs, it is clear that multiple agencies are responsible for running the capital city, and that these agencies have evolved over a period of time. Except for matters directly handled by the central govt, the GNCTD is responsible for service delivery in important sectors such as power, water, transport, education and health. MCD and other LBs

are in-charge of their respective areas for civic amenities, and the central govt and its agencies are responsible for land, planning for the city and public order, i.e. police. The chart below summarizes the position:

Administrative set up of the National Capital Territory of Delhi-



2.2 Regional and sub-regional framework

MPD-1962, recognising the need of planning of Delhi in the regional context, defined Delhi Metropolitan Area(DMA) of 800 sq. miles comprising Narela in the UT of Delhi and the six Ring Towns viz., Loni & Ghaziabad in Uttar Pradesh(UP);Faridabad, Ballabgarh, Bahadurgarh & Gurgaon in Punjab (now Haryana). The stated objective was 'to achieve a rational growth of Delhi which has been expanding in a most haphazard way, it is necessary to plan this whole area as a composite unit and have an integrated and balanced overall programme of development. The Ring Towns must be developed not only to deflect some of the population that would otherwise come into Delhi and jeopardize the planned growth of Delhi but also to help these towns to grow in a planned way'.² It aimed at accommodating the population deflected from Delhi, and to keep the population of urban Delhi to a manageable limit. It is noteworthy that the Plan also defined the National Capital Region(NCR) comprising the UT of Delhi and the 8 adjoining tehsils and 3 additional tehsils of Meerut, Hapur and Bulandshahr, and also recommended the setting up of a Statutory National Capital Planning Board and development of the region in accordance with a Regional Plan(RP).

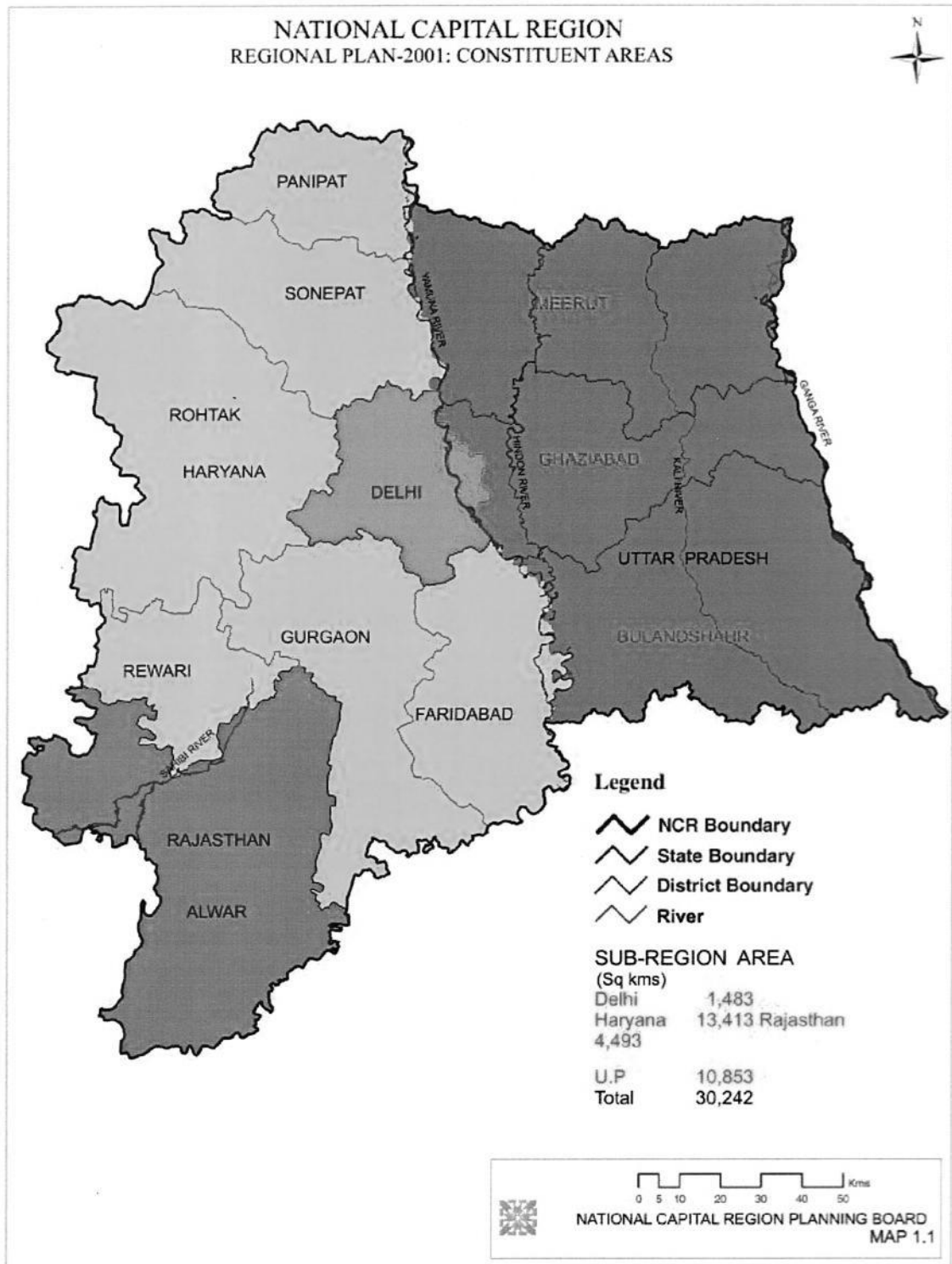
Subsequently, after a gap of several years, the task of preparing a comprehensive RP was entrusted to the Town and Country Planning Organisation (TCPO). The RP-1981 of NCR prepared by TCPO in 1973 reiterated the need to regulate the growth of Delhi and decentralisation of economic activities including shifting of government offices and public sector undertakings, wholesale trade and industry.

Further to this, and in view of the need to plan Delhi in the regional context under a suitable legislation which would control and regulate development in the region, the National Capital Region Planning Board(NCRPB) Act³ was enacted by the Parliament in 1985 with the concurrence of the constituent States *"to provide for the constitution of a Planning Board for the preparation of a plan for the development of the National Capital Region and for coordinating and monitoring the implementation of such plan and for evolving harmonised policies for the control of land uses and development of infrastructure in the National Capital Region so as to avoid any haphazard development of that Region and for matters connected therewith or incidental thereto"*. The

NCR covers an area of 30,242 sq km (refer Map below- National Capital Region Plan-2001: Constituent Areas), and includes the UT of Delhi and parts of the states of Haryana, Rajasthan and UP. The administrative units of the NCR are as follows:

- a) UT of Delhi Sub-Region;
- b) Haryana Sub-region comprising Faridabad, Gurgaon, Rohtak and Sonapat districts; Rewari tehsil of Mahendragarh district and Panipat tehsil of Karnal district;
- c) Rajasthan Sub-region comprising six tehsils of Alwar district, namely, Alwar, Ramgarh, Behror, Mandawar, Kishangarh and Tijara;&
- d) Uttar Pradesh Sub-region comprising three districts namely, Meerut, Ghaziabad and Bulandshahr.

MAP I: National Capital Region (2001)



(source: Regional Plan-2021)

2.3 The actual process of preparation/modification of Master Plan

The DD Act, 1957 vide section 7 states that DDA shall, as soon as may be, carry out a civic survey of, and prepare a master plan for, Delhi. The Act further lays down that the plan is to serve as a basic pattern of frame-work necessary for the proper development of Delhi, and within which, the zonal development plans of the various zones into which Delhi may be divided may be prepared simultaneously with the preparation of the master plan or afterwards.

The Act stipulates that there shall be a master plan for Delhi. In legal terms, therefore, it is the same master plan launched in 1962, which was further modified in 1990 (with 2001 as its perspective year), and further again in 2007 (with 2021 as its perspective year). The MPD is a subordinate legislation published under the Act. Any modification or change in MPD is carried out as per section 11A of the Act, including change of land use. The Act necessitates observance of a procedure involving public consultation before making any changes in MPD, and the procedure is also prescribed under the relevant rules framed

under the Act. It may also be mentioned here that the Building Byelaws for regulating the development of built structures in the city were harmonized by the various local bodies in 1983. These Byelaws are also published under the DD Act, 1957 as a subordinate legislation, as in the case of MPD.

Notes:

¹ The Delhi Development Act, 1957, section 7.

² MPD-1962(chapter I, 1)

³ The National Capital Region Planning Board (NCRPB) Act, 1985, section 7.